



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, DECEMBER 5, 2022

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Lesli Ellis, Community Development Director. Chair Stephens presided. Commissioner Shaddock-McNally and Commissioner Kefalas were present. Also, present were: Doug May, Planning; Conner Sheldon, Engineering; Lea Schneider, Environmental Health (remote); Laura Culleton, Planning; Frank Haug, Attorney's Office; and Kelly Bryant, Deputy Clerk.

Chair Stephens opened the hearing with the Pledge of Allegiance.

DISCUSSION ITEMS:

1. BALLARD BED & BREAKFAST ADMINISTRATIVE SPECIAL REVIEW, FILE NO. 22-ZONE3227 Doug May, Planner, presented the case to the Board. The owner/applicant, Michael Ballard, is requesting an Administrative Special Review for a three-bedroom owner-occupied Bed & Breakfast with an additional sleeping area for a total capacity of 8 guests in an existing home. The property is located at 2335 Fox Acres Drive E, Red Feather Lakes, CO 80545.

BACKGROUND

The subject property is located at 2335 Fox Acres Drive E, Red Feather Lakes, CO 80545. The property currently contains an existing single-family residence and is zoned RR-2 – Rural Residential. The applicant requests Administrative Special Review approval for a small Bed and Breakfast located in the existing three-bedroom single-family residence with a maximum occupancy of eight total guests, two guests per bedroom, as well as an additional sleeping area in the living room with two additional guests.

Administrative Special Review for a Bed and Breakfast requires both Planning Division and Building Division approval. For this case, Planning Division review and Building Division review were conducted concurrently. In general terms, the Planning review process involves:

1. Pre-application conference and application submittal.
2. Staff and referral agency evaluation and comment review.

3. Community notice and community comment review.

4. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

County staff mailed a courtesy community notification about the proposed project to properties within 500-feet of the subject property and all properties within the Fox Acres subdivision. Staff received community comments from seven community members noting concerns via email.

Following a review of the application, including reviewing community member and referral agency comments, and because of the concerns about the proposal, the Community Development Director determined that this application should be scheduled for a public hearing before the Board of County Commissioners for their decision, per Section 6.3.6.D.3 of the Land Use Code, based on the unresolved issues described below.

Administrative Special Review requires General Review Criteria to be met for approval (Section 6.4.3.D in the Land Use Code).

REVIEW CRITERIA

In reviewing a proposed administrative special review application, the Board of County Commissioners shall consider the general approval criteria in Section 6.3.8.D: General Review Criteria, and whether (Section 6.4.3.D):

1. The proposed use has minimal impacts on existing and future development of the area.

The proposed Bed and Breakfast is anticipated to have minimal impacts on existing and future development of the area. The proposed use will be fully contained within an existing single-family residence. Comments indicate that community members are concerned about parking, the fact that Fox Acres is a gated community, as well as Homeowners Association (HOA) covenants that prohibit short-term rentals. However, the applicant has indicated that this particular property was given HOA approval for the Bed and Breakfast prior to the HOA banning short-terms rentals in the Fox Acres subdivision.

2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.

The proposed Bed and Breakfast is anticipated to have minimal impacts on surrounding areas. A common concern brought up in neighbor comments is parking. However, the application indicated there is adequate parking to meet the requirements in Article 4.6 of the Land Use Code, which is two parking spaces for the single-family residential use, and one parking space for each guest room or additional sleeping area, for a total of 6 parking spaces.

3. The recommendations of referral agencies have been considered and adequately addressed.

This application was referred to the applicable referral agencies. The comments have been or will be adequately addressed.

4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and

The subject property is not located within a Growth Management Area (GMA) district. The subject property is located within the Urban Expansion Framework category, as defined in the Larimer County Comprehensive Plan. This category is intended for all land within approved GMAs. Since the subject property is not within a GMA district, this criterion is not applicable.

5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

The Bed and Breakfast meets the requirements in Article 3.3.5.A.

REVIEW AGENCY COMMENTS

The following Larimer County agencies have reviewed the Administrative Special Review for a proposed short-term rental use.

- The Building Division indicated that they have no objections to the request and the home must pass the Life Safety Inspection and obtain Planning approval before issuance of the Certificate of Occupancy.
- The Engineering Department stated that they do not expect the existing drainage patterns would be changed due to this application. If drainage patterns are going to be changed, a drainage plan will need to be submitted to the Engineering Department for review and approval. In addition, no parking is allowed in the right-of-way and the applicant has met parking requirements.
- Code Compliance noted that there are no building code violations.
- Health and Environment had no objections to the proposed use and encouraged the applicant to include emergency contact information in the lower level of the home.
- Wildfire indicated that the use would require a wildfire safety inspection.

SUMMARY AND CONCLUSIONS

The proposed Administrative Special Review for the Ballard Bed and Breakfast meets or will meet all criteria in Article 6.4.3.D.

DEVELOPMENT SERVICES RECOMMENDATIONS

The Development Services Team is not making a specific recommendation on the Ballard Bed and Breakfast, File No. 22-ZONE3227, and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

Commissioners and staff discussed the HOA Covenants and if restrictions on Bed & Breakfasts, Short-Term Rentals and grandfathered-in properties exist. Commissioner Kefalas questioned the parcel size and if the size would hinder the wildfire safety inspection. He also questioned if the homeowner would always remain onsite and if the wastewater system would be negatively impacted by the increased inhabitants. Commissioner Shadduck-McNally questioned whether the water facility had been notified of this proposal and if they had provided any feedback. She also mentioned her concerns about fire safety in the area and the number of homes in this subdivision.

Michael Ballard, owner, spoke to the Board. He thanked Doug May for his assistance in this process. Mr. Ballard stated that they were invested in the property and planned to retire in this home eventually. He introduced his current tenants who are currently employed in the Red Feather Lakes area and will reside in the home daily. He emphasized the difference between a Bed & Breakfast and a Short-Term Rental. The current resident, Adam Incera, spoke to the Board.

There was no Public Comment.

Commissioner Shadduck-McNally asked Mr. Ballard several questions regarding the number of homes in this area, how many properties might be short-term rentals, and fire safety matters. Mr. Ballard mentioned that a safety inspector directed him to trim trees as well as address window well cleanliness. Commissioner Shadduck-McNally mentioned the challenges of the lot size again. She also questioned the available parking spaces for the Bed & Breakfast. Mr. Ballard also mentioned that he would prepare a handbook to address surrounding wildlife, environmental needs as well as quiet hours enforcement. Chair Stephens questioned the parking lot coverage but was satisfied with the previous discussion with another Commissioner.

DELIBERATION

Commissioner Kefalas stated that he would be inclined to support the application for the Bed & Breakfast. He also asked that a wildlife safety inspection be included as part of the conditions for approval. Commissioner Shadduck-McNally mentioned her concern with the parking and needed to ensure that there would be no on-street parking. Staff confirmed that there are existing restrictions in place for on-street parking. She also mentioned that there would be an ability for the surrounding residents to submit complaints if needed. Chair Stephens stated that she would be in support of the approval of this application.

MOTION

Commissioner Kefalas moved that the Board of Larimer County Commissioners approve the Ballard Bed and Breakfast, File #22-ZONE3227, subject to the following conditions:

1. This approval shall automatically expire in three years if the use has not commenced and/or building permit and/or development construction permit are not issued.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Ballard Bed and Breakfast Administrative Special Review, File No. 22- ZONE3227.
3. The property owner is responsible for obtaining all applicable fees.

4. Prior to operation as a Bed and Breakfast, the applicant shall obtain an approved Change of Occupancy Permit from the Larimer County Building Division, and successfully pass the Life Safety Inspection.
5. The Bed and Breakfast is approved with 3 bedrooms and an additional sleeping area for a maximum occupancy of 8 people.
6. All parking must be contained on site.
7. The use must comply with the Larimer County Noise Ordinance which outlines noise levels as well as noise disturbances, with lower sounds/decibels at property lines between 7pm and 7am.
8. Upon issuance of the Change of Occupancy Permit, the applicant shall include the approved File Number, 22-ZONE3227, on all advertising websites.
9. Passage of a wildfire safety inspection.

With no further business to come before the Board, the meeting is adjourned at 3:45 p.m.

TUESDAY, DECEMBER 6, 2022

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Lorenda Volker, County Manager. Chair Stephens presided. Commissioner Kefalas and Commissioner Shadduck-McNally were present. Also present were Sarah Martin, Commissioners' Office, and Kelly Bryant, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** Paul Sterling spoke to the Board regarding floodplain permitting and the Short-Term Rental process. The Commissioners thanked Mr. Sterling for bringing this matter to their attention however due to current and potential cases, they would not be able to comment on specifics.

Chair Stephens closed public comments.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF NOVEMBER 28, 2022:**

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of November 28, 2022.

Motion passes 3 - 0

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF DECEMBER 12, 2022:** Ms. Martin reviewed the upcoming schedule with the Board.

4. **CONSENT AGENDA:**

ABATEMENTS:

1. **PETITION FOR ABATEMENT OR REFUND OF TAXES – R1645652 RS Loveland, LLC**

AGREEMENTS:

1. **INTERAGENCY AGREEMENT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND ESTES PARK SCHOOL DISTRICT R-3, POUDRE SCHOOL DISTRICT R-1, AND THOMPSON SCHOOL DISTRICT R2-J**

2. **MASTER SOFTWARE AS A SERVICES (SAAS) AND SERVICES AGREEMENT**

3. **CONTRACT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND SIGNAL BEHAVIORAL HEALTH NETWORK**

4. **AMENDMENT THREE TO THE CONTRACT BETWEEN LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES AND LIVEFULLY LLC**

5. **PROFESSIONAL SERVICES AGREEMENT (P22-12, AUDIT SERVICES)**

6. **LIMITED AGREEMENT FOR SEISMIC TESTING**

7. **2023 HUMANE SOCIETY AGREEMENT**

APPOINTMENTS:

1. **RECOMMENDED APPOINTMENT TO THE FLOOD REVIEW BOARD – Jamis Darrow**

MISCELLANEOUS:

1. **BY-LAWS AND RULES OF PROCEDURE OF THE LARIMER COUNTY RED FEATHER LAKES PLANNING ADVISORY COMMITTEE**

2. **PLANNING AND ENGINEERING DEVELOPMENT REVIEW FEE SCHEDULE ADOPTION (EFFECTIVE JANUARY 3, 2023)**

RESOLUTIONS:

1. RESOLUTION DECLARING EQUITY FEE REDUCTION FOR PLANNING AND ENGINEERING AND DEVELOPMENT REVIEW FEES FOR CERTAIN APPLICATION TYPES THAT ACHIEVE COMMUNITY BENEFITS

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Consent Agenda for Tuesday, December 6, 2022.

Motion passes 3 - 0

5. COMMISSIONERS GUESTS Commissioner Shadduck-McNally introduced Mark Pfaffinger, Chief Information Officer, who had been awarded the GoldenGov Award – County Executive of the Year. The 2022 StateScoop Awards honor the most influential people in the state government community and the most innovative projects that advance services and solutions for residents. Under Mr. Pfaffinger's leadership as CIO, Larimer County has improved citizen safety, operational efficiency, and services to citizens. His progressive approach has enabled Larimer County to respond to changes in cybersecurity and pivot to address emerging priorities like zero trust. As a result, the county is better able to serve remote and hybrid workers.

Commissioner Kefalas congratulated Mr. Pfaffinger on his award and was thankful for his efforts in protecting our resources. Chair Stephens congratulated him and emphasized the importance of his work in keeping us safe in the cyberworld. Commissioner Shadduck-McNally stated that Mr. Pfaffinger will be a featured speaker and on an expert panel at the next CCI (Colorado Counties Incorporated) state conference. Ms. Volker stated that it was a security vendor who had recommended Mr. Pfaffinger for this award. The recommending entity is a nationwide vendor that works with many organizations and thousands of people who recognized him personally for his excellent work. She thanked him for his work and congratulated him on this significant accomplishment.

6. DISCUSSION ITEMS

1. RESOLUTION OF THE LARIMER COUNTY BOARD OF COMMISSIONERS EXPRESSING INTENT TO PROVIDE FUNDING TO ASSIST WITH THE MEDICAL CARE CLINIC FOR PEOPLE EXPERIENCING HOMELESSNESS PROJECT Alea Rodriguez, Housing Stability Program Manager, spoke to the Board. She said this resolution expresses the intent of the Board of County Commissioners to provide \$1,000,000 of American Rescue Plan Act funds to contribute to the renovation of the Murphy Center to create an on-site clinic to provide primary and preventative medical care to people experiencing homelessness, and to the initial capital and operation costs for the on-site clinic.

PROPOSAL

It is proposed and requested that the Board approve the signing of this resolution by Chair Kristin Stephens, as an official act showing support for Homeward Alliance's on-site clinic at the Murphy Center, which will provide vital primary and preventative care to people experiencing homelessness,

decrease waitlists at the other clinics in the community providing low-barrier medical care, and improve health outcomes for vulnerable community members. Ms. Rodriguez said that this project is a long-term, transformation project to support the efforts of offering medical care to the homeless.

Homeward Alliance Executive Director, David Rout spoke to the Board and expressed his profound gratitude for the county colleagues in their advocacy for this project. He spoke about what he has learned by working with the homeless population and what services had not been available. He stated that “housing is the equivalent to health and about 700 people that are chronically homeless in Larimer County. He emphasized that more than housing must be provided for those who are experiencing homelessness and knows more can be done through the Murphy Center. He did mention that Medicare and Medicaid would eventually be supporting this project long-term.

Commissioner Kefalas thanked Mr. Rout for his efforts on this project. He clarified the beginning of the project is expected to be in 2024. Commissioner Kefalas questioned the type and quality of professionals expected to be hired. Commissioner Shadduck-McNally thanked Laura Walker and Alea Rodriguez for their work on this project as well. She spoke of her experiences while working on the Human Services Commission in Loveland and noted that this issue is multilayered. Commissioner Kefalas mentioned that he looked forward to working with Homeward Alliance in the future. Chair Stephens questioned the 24-hour campus concept and asked what services might be offered to the homeless. She also mentioned Pat Stryker with the Bohemian Foundation and thanked that organization for their work on this subject as well.

MOTION

Commissioner Shadduck-McNally moved to approve the Resolution of the Larimer County Board of Commissioners Expressing Intent to Provide Funding to Assist with the Medical Care Clinic for People Experiencing Homelessness Project.

Motion passes 3 - 0

7. **COUNTY MANAGER UPDATE:** Manager Volker introduced Mr. Matthew Behunin, Senior Budget Analyst, to the Board and stated the 2022-2023 Budget would be forthcoming. Mr. Behunin led a presentation of the anticipated changes. He mentioned that a public meeting is scheduled for December 14, 2022, at 2:30 p.m. to be held in the Public Hearing room at 200 W. Oak.

8. **COMMISSIONER ACTIVITY REPORTS:** The Board detailed their attendance at events during the previous week.

9. **LEGAL MATTERS**

Decision expected

MOTION

Commissioner Kefalas moved the Board of County Commissioners enter into Executive Session pursuant to C.R.S. 24-6-402(4)(f)(I): Personnel matters.

Motion passes 3 – 0

Bridget Paris, Human Resources Director, spoke to the Board. She stated this session was a unique situation that is resulting in a request for a payout of an employee.

MOTION

Commissioner Shadduck-McNally moved that the Larimer County Board of County Commissioners approve the waiver of Larimer County Benefits Policy 331.6, Section V.J.2, for an employee to provide a payout of leave accrued over the max.

Motion passes 3 – 0

Decision expected

MOTION

Commissioner Kefalas moved that the Board of County Commissioners enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding Davenport v. Parrot.

Motion passes 3 – 0

Bill Ressue, County Attorney, requested approval for legal defense regarding a lawsuit filed recently that includes allegations relating to alleged conduct by Phillip Parrot who was a District Attorney for the 8th Judicial District. He said that the county is the responsible party over the District Attorney's Office, and it has a duty to defend lawsuits that are brought against employees of the District Attorney's Office when their conduct is in that capacity. The case is 22CV30471 Davenport v. Parrot alleges conduct in his capacity as District Attorney and the request is to use outside counsel for his defense.

Commissioner Kefalas moved that the Board of County Commissioners approve Larimer County to defend Phillip Parrott in case # 22CV30471, Davenport vs. Parrott, against any claim arising from conduct occurring within the scope of Mr. Parrott's employment as an appointed District Attorney for the 8th Judicial District, and further authorize the County Attorney to secure outside counsel for such purpose.

Motion passes 3 – 0

With there being no further business to come before the Board, Chair Stephens adjourned at 11:00 a.m.

Kristin Stephens

**KRISTIN STEPHENS
BOARD OF COUNTY COMMISSIONERS**

**ANGELA MYERS
CLERK AND RECORDER**

ATTEST:

Kelly Bryant

Kelly Bryant, Deputy Clerk

